## RECOMMENDATION

(a) That the policy “DARTS Vehicle Surveillance System Management”, attached as “Appendix A” to this Report PW011058, be approved;

(b) That the item “ACPD Request for Policy on Usage of Video Surveillance in relation to Public Transit” be identified as completed and removed from the General Issues Committee’s Outstanding Business List.

## EXECUTIVE SUMMARY

As per Council direction in response to a recommendation of the Advisory Committee for Persons with Disabilities (ACPD) within its Report 10-006, considered by General Issues Committee on January 10, 2011, a policy on the use of video surveillance, specifically as it applies to that system now implemented on DARTS vehicles, has been completed and is being recommended within this Report.

ACPD had requested of Committee that staff be directed to “prepare a set of guiding principles, policies and procedures for video surveillance cameras usage in relation to public transportation”. The recommended policy attached as “Appendix A” to this Report, does not apply to all “public transportation” (as is implied by the ACPD recommendation to GIC), as:
• HSR has not yet committed to implementation of a surveillance system, and any system that may be implemented might have significant differences with that employed on DARTS vehicles; and
• DARTS is a contractor to the City and there are policy requirements that might not necessarily apply to operation of a system by HSR.

The recommended policy is comprehensive in nature, setting out specific uses, procedures and requirements for deployment of the DARTS vehicle surveillance system. The intended use, collection, and disclosure of information obtained through the DARTS vehicle surveillance system is consistent with that provided for in applicable legislation (i.e. the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56 (MFIPPA), City Of Hamilton Records Retention By-Law), and with the obligations of the City to protect the privacy of persons using the service, imposing appropriate roles, responsibilities, restrictions, and processes while recognizing the relationship between the City and DARTS in the provision of public transit services.

The policy has been written with input from City of Hamilton Divisions/Sections including Legal Services, City Clerk, and Transit; as well as input from DARTS.

Alternatives for Consideration - Not Applicable

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: There are no financial implications.
Staffing: There are no staffing implications.
Legal: The policy recommended within this Report addresses legislated requirements including those set out under MFIPPA and City of Hamilton By-Laws.

HISTORICAL BACKGROUND

At the direction of Council, and in response to a recommendation of the Advisory Committee for Persons with Disabilities (ACPD) within its Report 10-006, received by General Issues Committee on January 10, 2011, the Transit section of Public Works, in consultation with Legal Services and the City’s Access and Privacy Officer, and with DARTS, has developed a policy that governs the use of the video surveillance system that has been implemented on DARTS buses.

Capital funding for a video surveillance system for DARTS was approved during the 2010 budget, and procurement and installation was carried out during the fourth quarter of 2010 and the first quarter of 2011.

Transit staff made a presentation to the Transportation Subcommittee of ACPD on September 28, 2010, which outlined the essential elements of a policy which would govern use of the video surveillance system. That Subcommittee expressed a number of concerns with DARTS control of access and potential misuse of data, levels of access by DARTS and Transit staff, and limitations which might govern that access.

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
The recommendation by ACPD to General Issues Committee was a result of those concerns.

The policy as recommended addresses concerns raised by the Transportation Subcommittee of ACPD by application of legislated requirements and terms of the City’s Master Operational Agreement with DARTS.

**POLICY IMPLICATIONS**

The policy presented within this report sets out specific uses, procedures and requirements for deployment of a video surveillance system for DARTS buses. The policy imposes appropriate roles, responsibilities, restrictions, and processes to fully address obligations of the City under legislated requirements (i.e. MFIPPA, City Of Hamilton Records Retention By-Law) and to protect the privacy of persons using the service.

**RELEVANT CONSULTATION**

City of Hamilton Divisions/Sections including Legal Services, Office of the City Clerk, and Transit; DARTS; Advisory Committee for Persons with Disabilities (see Historical Background section).

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

The policy recommendations within this Report are necessary for compliance with applicable legislation in the operation of a video surveillance system in a public transit setting. City of Hamilton Legal Services staff has reviewed legislated requirements, guiding legislative review materials, and the City’s Master Operational Agreement with DARTS to determine appropriate roles, responsibilities and restrictions in the operation of the system.

**ALTERNATIVES FOR CONSIDERATION**

N/A

**CORPORATE STRATEGIC PLAN**


**Social Development**

- People participate in all aspects of community life without barriers or stigma.
- Promotes greater accessibility within the community for persons with disabilities.
Healthy Community

- An engaged Citizenry.
- Responds to concerns raised by the Advisory Committee for Persons with Disabilities for the City of Hamilton.

APPENDICES / SCHEDULES

Appendix “A” - DARTS Vehicle Surveillance System Management Policy
1. **Purpose**

The purpose of this Policy is to set out responsibilities and obligations with respect to the deployment and operation of, and the records created by, the video surveillance system on vehicles operated by DARTS while in the course of providing public transit services to and on behalf of the City of Hamilton.

2. **Legislated Requirements**

The records created while delivering the DARTS vehicle surveillance system are under the City’s control and are subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as the same may be amended or replaced from time to time.

3. **Application**

This Policy applies to the video surveillance system on vehicles operated by DARTS while in the course of providing public transit services to and on behalf of the City of Hamilton.

This Policy does not apply to such other surveillance systems that may be employed by DARTS when not providing public transit services to and on behalf of the City, or to other surveillance systems that may be employed by the City. The responsibilities and obligations outlined in this Policy do not derogate, affect or alter those set out in the Master Operational Agreement between the City of Hamilton, The Hamilton Street Railway Company, and Disabled and Aged Regional Transit System.

4. **Definitions**

In this Policy:

“Access and Privacy Officer in the Office of the City Clerk” means the Access and Privacy Officer in the City of Hamilton’s Office of the City Clerk or a person designated by him or her to act on behalf of the Access and Privacy Officer.
“City” means the City of Hamilton.

“DARTS” means the Disabled and Aged Regional Transit System.

“DARTS vehicle surveillance system” means the video surveillance system on vehicles operated by DARTS while in the course of providing public transit services to and on behalf of the City of Hamilton.

“Director of Transit” means the Director of Transit of the City of Hamilton or a person designated by him or her to act on behalf of the Director of Transit.

“Executive Director” means the Executive Director of the Disabled and Aged Regional Transit System.

“MFIPPA” means the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as the same may be amended or replaced from time to time.

“Supervisory Staff” means those staff of DARTS designated by the Executive Director of DARTS as having supervisory functions with regard to the DARTS vehicle surveillance system.

5. **Collection, Use and Disclosure of Information**

The DARTS vehicle surveillance system is intended to:
- provide video and audio covering all vehicle interior space; and
- provide video around the exterior perimeters, with focus on areas of boarding and alighting.

The DARTS vehicle surveillance system is not intended to directly monitor passengers or employees, and is not designed to provide live streaming of records to a remote monitoring site.

The information collected through the DARTS vehicle surveillance system is used:
- to investigate an incident involving the safety or security of people or property; or
- to investigate an incident involving an insurance claim or risk management process.

The information collected through the DARTS vehicle surveillance system may be disclosed:
- to provide law enforcement agencies with evidence related to an incident under police investigation;
- to respond to a request for information under MFIPPA;
- for the purposes for which it was obtained or compiled or for a consistent purpose; or
- otherwise in accordance with MFIPPA.

6. **Vehicle Surveillance System Operating Configuration, Limits and Controls**

The DARTS vehicle surveillance system employs on-board Digital Video Recorder (DVR) technology, which DARTS may upgrade from time to time as new technologies become available.

The DVR device located on the vehicle operates on an endless loop design with video/audio records older than that time period set out in the DARTS vehicle surveillance system operating specification being over-written with current records. DVR devices shall be set to a maximum of 72 hours of recording before over-write occurs.
Given the open and public nature of the DARTS vehicles and the need to provide for the safety and security of passengers and employees who may be present at all hours of the day, the DARTS vehicle surveillance system may operate at any time in a 24 hour period. The system will start recording only when the vehicle ignition is turned on, and continues to record for 45 minutes after the vehicle ignition is shut off.

Each DARTS vehicle surveillance system unit is self-contained on the vehicle, and may only be accessed through an authorized physical intervention. Based on incident report filings requiring investigation of activity on or near a particular vehicle, the DVR device on the particular vehicle will be removed from the vehicle to a secure area and polled for records at the time particular to the investigation. The DVR device will be returned to the vehicle; records downloaded from the DVR device will be retained and form part of the investigation findings.

Ability to adjust cameras and to access the on-board recording device shall be restricted to those employees of DARTS properly authorized by the Executive Director, in writing.

Video clip production and viewing of DVR device records will be in a strictly controlled access area. Only the Executive Director or those properly authorized in writing by the Executive Director, shall have access to the controlled access area and the reception/recording equipment.

Every reasonable attempt will be made by video users to ensure equipment is not in a position that enables unauthorized viewing of images.

Only employees and contractors designated by the Executive Director in writing, shall be permitted to operate and/or maintain the DARTS vehicle surveillance system.

All authorized employees of DARTS, and contractors operating on behalf of DARTS in the operation or maintenance of the DARTS vehicle surveillance system, shall acknowledge in writing that they have been trained and understand their obligations under this Policy and MFIPPA.

7. Roles and Responsibilities

7.1 The City shall:
- provide the capital funds in support of the DARTS vehicle surveillance system for City-owned vehicles;
- audit compliance with this Policy on a regular basis and update it as necessary;
- communicate with stakeholders regarding the DARTS vehicle surveillance system and this Policy;
- access logs and records through DARTS related to the intended uses; and
- respond to requests for disclosure by third parties.

7.2 DARTS shall:
- comply with the terms of this Policy and with MFIPPA;
- maintain the functionality and security of the DARTS vehicle surveillance system equipment and records;
- perform secure retrieval and review of records related to the intended uses; and
- provide the City with access to the records upon request and in prescribed time.
7.2.1 The Executive Director shall:
  o delegate day-to-day operations of the DARTS vehicle surveillance system to Supervisory Staff;
  o maintain a list of all Supervisory Staff who have been delegated day-to-day operations of the DARTS vehicle surveillance system and only those who have been designated may be permitted to operate the system;
  o ensure systems and processes are developed and observed to maintain the DARTS vehicle surveillance equipment in a state of good repair;
  o ensure systems and processes are developed and observed to secure all records of the DARTS vehicle surveillance system from unauthorized access, use, disclosure and destruction;
  o ensure an appropriate training program is established and implemented for Supervisory Staff and anyone else who will have access to the records, which shall include training with respect to protection of privacy and confidentiality; and
  o ensure the records are accessed and used only by DARTS or its authorized contractors and only to the extent that is necessary and proper in the discharge of their functions.

7.2.2 The Supervisory Staff shall be responsible for the operations of the DARTS vehicle surveillance system, which shall include:
  o overseeing day-to-day operations and maintenance of the DARTS vehicle surveillance system;
  o ensuring compliance with all aspects of this Policy;
  o ensuring logbooks, recording all activities related to devices and records, are maintained;
  o logging all system access; ensuring confidential review of records only by authorized personnel;
  o documenting all information regarding the use, maintenance, and storage of records in the applicable logbook, including all instances of access to, and use of, recorded material to enable a proper audit trail; and
  o ensuring that no copies of records, in any format, are taken without the Supervisory Staff’s approval.

7.2.3 The employees, contractors and agents of DARTS shall:
  o not disclose, access or use records contained in the DARTS vehicle surveillance system, its components, files, or records database for personal reasons nor disclose, dispose, destroy, erase or alter any record without proper authorization from the City, Executive Director or Supervisory Staff, as the case may be, and without following the terms and conditions contained in this Policy.

8. Records Retention Period and Record Keeping

8.1 Retention Period

The DVR device located on the vehicle operates on an endless loop design with video/audio records older than that time period set out in the DARTS vehicle surveillance system operating specification being over-written with current records. DVR devices shall be set to a maximum of 72 hours of recording before over-write occurs.

When records created by the DARTS vehicle surveillance system have been used, such records shall be retained for the period specified in the City of Hamilton’s Records Retention By-law.
8.2 Record Identification Logbook

All records shall be clearly identified with the date and location of origin.

A logbook shall be maintained to record all activities related to devices and records. The logbook shall remain in a safe and secure location with the video viewing equipment and shall contain the following information:

- the date and time of the original, recorded incident;
- the date and time at which the access was allowed or the date on which disclosure was made;
- the identification of the person authoring the logbook;
- the identification of the person who was allowed access or to whom disclosure was made;
- the identification of the person who permitted the access or disclosure;
- the reason for allowing access or disclosure;
- the extent of the information to which access was allowed or which was disclosed;
- provisions for the return of the record or its destruction; and
- any other information pertaining to the use, access, disclosure, storage or destruction of the device or record.

All devices that are not in use must be stored securely in a locked receptacle located in an access-controlled area.

9. Notice of Use of Video Surveillance

DARTS shall post signs, visible to members of the public, at all entrances to vehicle space being recorded, such signs noting:

This vehicle is monitored by video surveillance for ensuring the safety and security of this passenger transportation system, under the authority of the *City of Hamilton Act, 1999*, S.O. 1999, c. 14.

Questions regarding the surveillance program may be directed to the Director of Transit for the City of Hamilton.

Full notice of collection will be posted by the City on its website and through accessible communications.

10. Access Restrictions

In accordance with MFIPPA, access to the records created by the DARTS vehicle surveillance system is limited to:

- individuals responsible for the operation or administration of the DARTS vehicle surveillance system;
- individuals who have a legitimate need to access the records for one of the purposes listed in uses listed under “Collection, Use and Disclosure of Information” in this Policy;
- individuals whose request for disclosure under MFIPPA has been granted.
11. **Formal Access Request Process**

All requests for disclosure by third parties shall be directed to the Access and Privacy Officer in the Office of the City Clerk.

The requestor shall provide sufficient detail (the approximate time and date, the location - if known - of the incident, etc.) to enable an experienced employee of DARTS, upon a reasonable effort, to identify the record; and, at the time of making the request, pay any prescribed fees in effect at the time of the request.

The Executive Director, DARTS shall supply the City with the requested record upon request and in prescribed time.

Designated staff of DARTS will record the information specified under “Record Identification Logbook” in this Policy, to the extent applicable, in the site location’s logbook.

The City shall determine whether disclosure to the requestor shall be granted.

12. **Breach of Policy**

DARTS shall implement and maintain policies that deal with breach of this Policy by its directors, officers, employees, contractors and agents, with discipline or sanctions that properly reflect the obligations of DARTS to the City to protect the privacy of persons using the transit service provided by DARTS and the requirements to comply with MFIPPA and this Policy.

Breach of this Policy and/or MFIPPA by DARTS shall constitute a breach of the Master Operational Agreement between the City of Hamilton, The Hamilton Street Railway Company, and Disabled and Aged Regional Transit System, and may lead to actions under the terms of that Agreement.

Any DARTS or City employee having knowledge of an authorized access, disclosure or loss of a record must immediately inform the Director of Transit of the breach. The Director of Transit will inform the Access and Privacy Officer in the Office of the City Clerk and Executive Director, DARTS, and together they will take all reasonable actions to recover the record and limit the record’s exposure.

13. **Review of Policy**

This Policy shall be reviewed at regular intervals as required by the City and DARTS, and no less than every 2 years after it is first approved. This Policy shall be reviewed whenever there is an upgrade to the technology used in the DARTS vehicle surveillance system.

14. **Contact**

All requests for information on this Policy and its application shall be referred to the Director of Transit.

15. **ASSOCIATED DOCUMENTS**

Not applicable
16. REVISION HISTORY

Revision No.: 1

Date of Last Revision: N/A

Last Approval Date: May 17, 2011

Reason for Change: New Policy

Prepared by: (Print Name) Paul Thompson
Manager, Accessible Transportation Services

Prepared by: (Signature)

Authorized by: (Print Name) Don Hull

Title: Director of Transit

Signature

Note: The Section Manager is required to Authorize Level 4 Work Instructions. If the Section Manager is the person who prepared the Work Instruction, then his/her Director shall Authorize the Work Instruction.